

## **Council for Trade in Services**

### **Status**

The General Agreement on Trade in Services (GATS) consists of a framework agreement that lays out the general obligations for trade in services in much the same way that the General Agreement on Tariffs and Trade does for trade in goods. Most-favored-nation treatment (MFN), market access and national treatment are three of the important principles included in the general framework of the GATS. Thus, the GATS provides a legal framework for addressing barriers to trade and investment in services, and it includes specific commitments by WTO Members to restrict their use of those barriers. These commitments are contained in national schedules, similar to the national schedules for tariffs. The Council for Trade in Services oversees implementation of the GATS and reports to the General Council.

All Members of the WTO are signatories to the GATS framework agreement and have made sector-specific commitments pertaining to national treatment, market access, and MFN treatment. Ministerial Decisions at the conclusion of the Uruguay Round had called for negotiations on further liberalization in, *inter alia*, the financial services and basic telecommunications sectors, the results of which entered into force in 1999 and 1998, respectively, as well as a work program in professional services, which completed its work with respect to accountancy in 1999.

The GATS also provides a forum for further negotiations to open services markets around the world. The GATS Article XIX calls for additional rounds of market-opening negotiations. The first such round began on January 1, 2000, and, consistent with GATS provisions, was preceded by a program of preparatory work in the Council.

### **Assessment of the First Five Years of Operation**

The GATS is the first multilateral, legally enforceable agreement covering trade and investment in the services sector. Its objective is to reduce or eliminate governmental measures that prevent services from being freely provided across national borders or that discriminate against locally-established service firms with foreign ownership, while at the same time maintaining regulators' ability to meet legitimate objectives. Trade in services includes all economic activities whose outputs are other than tangible goods, including, but not limited to, banking, insurance, telecommunications, distribution services (retail and wholesale trade), computer and related services, advertising, professional services, private education and training, private health care, audiovisual and tourism services.

The past five years have focused on improving the ground-breaking framework agreement created in the Uruguay Round. This work has taken place in three arenas: sectoral negotiations, elaboration of important provisions of the framework agreement, and specific commitments of new WTO Members.

As discussed in previous Annual Reports, since 1995 there have been GATS negotiations in four sectors (financial services, basic telecommunications, professional services, and maritime transport services) and one "mode" – temporary entry of natural persons. While outcomes have varied in these negotiations, each has served to establish important precedents that reinforce the objective of the GATS: removal of restrictions and establishing disciplines to ensure *effective* market access for trade in services.

In the cases of financial services and basic telecommunications, negotiations that had been twice extended since the Uruguay Round finally were concluded only when a "critical mass" of important trading partners

demonstrated their willingness to include new commercial opportunities in their scheduled commitments. By contrast, in the case of maritime transport services, negotiations failed to conclude when almost without exception no WTO Member proposed to remove restrictions in that sector; to the contrary, many wanted to use their GATS schedules to legitimize existing, restrictive regimes.

The negotiations on professional services produced “Guidelines for Negotiation of Mutual Recognition in Accountancy” to facilitate mutual recognition of licensed accountants and “Disciplines for Regulation in the Accountancy Sector” to address unnecessarily trade-restrictive regulation of the profession. Moreover, this work serves as a starting point for examination of other professions with the ultimate goal of improving portability of professional credentials worldwide.

The post-Uruguay Round period also has seen progress in expanding the scope of certain GATS provisions, in particular to help ensure that regulation of trade in services supports trade liberalization. Resulting from the Agreement on Basic Telecommunications Services, 67 countries have effectively expanded the scope of existing GATS provisions addressing transparency, monopolies, and restrictive business practices and agreed to apply these strengthened, sector-specific disciplines to their liberalized telecommunications markets. Separately, as noted below, the Working Party on Domestic Regulation is building on the achievements in accountancy to develop new disciplines aimed at promoting transparency and fairness in regulation in all service sectors. Finally, the nomenclature work, described below, in the Committee on Specific Commitments, is aimed at improving the framework of the GATS through sectoral commitments that encompass real-world commercial activities and interests.

### **Major Issues in 1999**

As it had the previous year, in 1999 the Council devoted the bulk of its time to preparing for the coming round of services negotiations. First, the Council continued the “information exchange,” the first required step in the preparations, ultimately covering over 15 services sectors and the four GATS “modes of delivery.” During the information exchange, the WTO Secretariat produced over 20 background papers, with information on and analysis of the economic importance of each of the sectors, regulatory and other restrictions, and existing commitments by WTO Members. The Council quickly agreed to derestrict the papers, which are publicly available at [www.wto.org/wto/services/w65.htm](http://www.wto.org/wto/services/w65.htm).

The information exchange helped to develop a common understanding among Members of the important role that services can play in their own economic growth, the importance of further liberalization in services, the need for appropriate regulation to safeguard legitimate domestic social and other concerns, the evolution in the nature of trade in services since the Uruguay Round, and, in many cases, the very limited nature of country commitments in these sectors.

In a more immediate sense, the information exchange helped Members identify additional technical work needed to lay the basis for improved commitments in the next negotiation. As in 1998, nomenclature, regulatory, and other issues that emerged in the course of the information exchange fed into work in two of the Council’s subsidiary bodies, the Committee on Specific Commitments, and the Working Party on Domestic Regulation.

In 1999, the Council also took up other required preparatory steps for the new GATS round, including an “assessment of trade in services.” Drawing on background documentation by the Secretariat, other international organizations and individual Members, the Council took note of developmental aspects of trade in services, as well as major statistical deficiencies in measuring such trade and its impact. In view of the preliminary nature of these conclusions, Members agreed to continue the “assessment” into the negotiations themselves in 2000.

The Council also discussed “negotiating guidelines and procedures,” as provided for in the GATS. Some 25 Members submitted views to the Council for Trade in Services or the General Council or both and, in the end, achieved a very high degree of unanimity on these provisions, which ultimately was reflected in the draft text at Third Ministerial. In addition, the Council began two reviews required by the GATS, regarding the current exclusion of most air transport services from the scope of the GATS and Members’ exemptions from most-favored-nation treatment. Both reviews will continue in 2000.

#### **Work for 2000**

In pursuing the mandated negotiations on services, the Council, and its subsidiary bodies, will continue the technical work already underway: improvements in nomenclature, development of appropriate regulatory disciplines – applicable to all sectors and, where desirable, applicable to individual sectors – and review of scheduling guidelines. Discussion will continue on timing and modalities for the negotiations.